

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS
CENTRAL DIVISION

CIVIL ACTION NO.

ANGEL ROMAN,

Plaintiff,

v.

PHILIP LAHEY JR., M.D., WORCESTER
COUNTY ORTHOPEDICS, LLP, JANE/JOHN
DOE

Defendants.

COMPLAINT AND DEMAND FOR JURY TRIAL

JURISDICTION AND VENUE

1. Jurisdiction is conferred by 28 United States Code 1332, as the parties herein are of diverse citizenship (Florida plaintiff and Massachusetts defendants) and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs. Venue resides in the Central Division of the United States District Court, District of Massachusetts.
2. Massachusetts General Laws c. 231, §60L requiring 180-day written notice to the healthcare provider before the action is filed in court is inapplicable to this case as the statute of limitations is set to expire within six months of the filing of this action. G.L. c. 231, §60L(j).

PARTIES

3. Plaintiff, Angel Roman, (hereinafter “Mr. Roman” or “Angel Roman”) was, at all relevant times hereto, an adult with a usual place of residence at 5707 Normie Dr, Orlando FL.

4. Upon information and belief, at all relevant times hereto Defendant Philip Lahey, Jr M.D. (“Dr. Lahey”) at all relevant times hereto was a physician licensed in the Commonwealth of Massachusetts and practicing medicine as an orthopedic specialist at Worcester County Orthopedics in Worcester, Commonwealth of Massachusetts. Dr. Lahey’s residential address is in Worcester County, Commonwealth of Massachusetts.
5. Upon information and belief, Defendant Worcester County Orthopedics, LLP (hereinafter “Worcester County Orthopedics”) was at all relevant times hereto a duly organized corporation with a principal place of business and primary location at 59 Quinsigamond Ave, Worcester, Worcester County, Commonwealth of Massachusetts, 01610. The registered agent for Worcester County Orthopedics Upon information and belief, at all relevant times hereto, Worcester County Orthopedics was the employer of Dr. Lahey, Jr.
6. Upon information and belief defendants Jane/John Doe are medical care providers who rendered care to Angel Roman at St. Vincent Hospital between May 22, 2018 and June 22, 2018.

FACTS

7. At the time of his total knee replacement, Mr. Roman was a Spanish speaking 68-year-old, 285-pound, retired Florida resident who had been active, lifted weights, and had a pertinent medical history of osteoarthritis.
8. On or before May 22, 2018, Mr. Roman travelled to Massachusetts and developed a patient-physician relationship with Dr. Philip Lahey Jr.
9. On May 22, 2018 Mr. Roman underwent a left total knee replacement surgery performed by Dr. Philip Lahey Jr., and assisted by Christopher Chow, PA at St. Vincent’s Hospital in Worcester, Commonwealth of Massachusetts.

10. During the procedure, Dr. Lahey, Jr. implanted a size 4 posterior stabilized cemented femoral component with a size 3 cemented tibial tray with an extension to the keel and a size 8-mm fixed bearing tibial insert and size 35-mm oval dome patella.
11. Approximately two weeks post-operatively, Mr. Roman returned to Florida where he currently resides.
12. Since his total knee replacement on 5/22/2018, Mr. Roman has experienced pain in his left knee that continued to progressively worsen.
13. Between May 22, 2018 and the present, Mr. Roman experienced instability in his left knee which caused him to trip and fall multiple times, which resulted in worsened pain to his left knee.
14. Additionally, between May 22, 2018 and the present, Mr. Roman began placing the majority of his weight on the right knee to alleviate pressure and weight on his painful left knee.
15. Between May 22, 2018 and the present, Mr. Roman lost approximately 45 pounds.
16. In approximately January 2021, Mr. Roman formed a patient physician relationship with Dr. Luis Garcia Fresneda in Kissimmee, Florida.
17. In approximately January 2021, Dr. Fresneda informed Mr. Roman that the pain and instability he was experiencing in his left knee was due to a limb length discrepancy whereby his left leg was shorter than his right as a result of the total knee replacement surgery in 2018 and referred him to an orthopedic specialist.
18. The orthopedic specialist took imaging studies of Mr. Roman's left knee and again diagnosed him with a limb length discrepancy.

19. Since May 22, 2018 Mr. Roman has been experienced serious and permanent injuries including, but not limited to, prolonged and ongoing pain and suffering, impaired ambulation, emotional distress, falls, pain to his right knee and leg from overuse, loss of left leg length, a loss of enjoyment of life, need for future medical care, and need for future surgery.

COUNT I – NEGLIGENCE
ANGEL ROMAN V. PHILIP LAHEY JR., M.D.

20. Plaintiff repeats and incorporates herein the allegations in paragraphs 1 through 19 above.

21. Defendant Dr. Lahey, Jr. owed a duty to Mr. Roman to use the care and skill required of the average qualified orthopedic surgeon, taking into account the advances in the profession at the time in 2018 and under the circumstances that then existed.

22. On or about May 22, 2018 and thereafter Mr. Roman was a patient of Dr. Lahey, Jr., was under the Defendant's care and treatment and was relying upon the Defendant orthopedic surgeon to provide him with the care and skill required of the average qualified orthopedic surgeon properly practicing the profession.

23. Dr. Lahey negligently, carelessly, and/or unskillfully treated Mr. Roman and deviated from and fell below the accepted standard of care for the average qualified orthopedic surgeon in the Commonwealth of Massachusetts in 2018, taking into account the advances in the profession, by and among other things:

- a. Negligently performing Mr. Roman's total knee replacement surgery;
- b. Implanting the wrong size knee components; and/or
- c. Resecting too much bone from the tibia and femur of Mr. Roman's left leg.

24. As a direct and proximate result of the negligence and carelessness of the Defendant, Dr. Lahey, Mr. Roman was caused to suffer serious and permanent injuries including, but not limited to, prolonged and ongoing pain and suffering, impaired ambulation, emotional distress, falls, pain to his right knee and leg from overuse, loss of left leg length, a loss of enjoyment of life, need for future medical care, and need for future surgery.

WHEREFORE, Plaintiff Angel Roman demands judgment in his favor against Defendant Dr. Lahey, Jr. for monetary damages to be determined by a jury, plus interest and costs.

COUNT III- NEGLIGENCE
ANGEL ROMAN V. JANE/JOHN DOE

25. Plaintiff repeats and incorporates herein the allegations in paragraphs 1 through 24 above.

26. Defendant Jane/John Doe owed a duty to Mr. Roman to use the care and skill required of the average medical professional, taking into account the advances in the profession at the time in 2018 and under the circumstances that then existed.

27. On or about May 22, 2018 and thereafter Roman was a patient of Jane/John Doe, was under the Defendant's care and treatment and was relying upon the Defendant medical professional to provide him with the care and skill required of the average qualified medical professional practicing the profession.

28. Jane/ John Doe negligently, carelessly, and/or unskillfully treated Mr. Roman and deviated from and fell below the accepted standard of care for the average qualified medical professional in the Commonwealth of Massachusetts in 2018, taking into account the advances in the profession, by and among other things:

- a. Negligently performing Mr. Roman's total knee replacement surgery;
- b. Implanting the wrong size knee components; and/or

c. Resecting too much bone from the tibia and femur of Mr. Roman's left leg.

29. As a direct and proximate result of the negligence and carelessness of the Defendant, Jane/John Doe, Mr. Roman was caused to suffer serious and permanent injuries including, but not limited to, prolonged and ongoing pain and suffering, impaired ambulation, emotional distress, falls, pain to his right knee and leg from overuse, loss of left leg length, a loss of enjoyment of life, need for future medical care, and need for future surgery.

WHEREFORE, Plaintiff Angel Roman demands judgment in his favor against Defendant Jane/John Doe for monetary damages to be determined by a jury, plus interest and costs.

COUNT III- NEGLIGENCE
ANGEL ROMAN V. WORCESTER COUNTY ORTHOPEDICS, LLP

30. Plaintiff repeats and incorporates herein the allegations in paragraphs 1 through 29 above.

31. Defendant Dr. Lahey, Jr. while practicing within the scope of his employment, agency, and/or servitude for Worcester County Orthopedics, and/or in his capacity as an officer, director, managing agent, servant, and/or employee of Worcester County Orthopedics rendered medical care and treatment that fell below the accepted standard of care for the average qualified orthopedic surgeon at the time.

32. As a direct and proximate cause of this negligence by Worcester County Orthopedics agent, servant, and/or employee, Mr. Roman was caused to suffer prolonged pain and suffering, a loss of leg length incursion of medical expenses, and will possibly require an additional surgery.

33. WHEREFORE, Plaintiff Angel Roman demands judgment in his favor against Defendant Worcester County Orthopedics for monetary damages to be determined by a jury, plus interest and costs.

JURY DEMAND

Plaintiff demands a trial by jury on all issues so triable.

Respectfully submitted,
PLAINTIFF,
By his Attorneys,

/s/ Ingrid A. Halstrom

Date: 5/21/2021

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